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Phillip M. Weiss, Esq. Weiss & Weiss 300 Old Country Road Suite 251 Mineola, NY 11501			CHAMPAGNE, DONALD	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09801167

Filing Date: 7 March 2001

Appellant(s): GILLMAN ET AL.

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Philip M. Weiss, Esq.  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 3 March 2008 appealing from the Office action mailed 4 October 2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

Boyd, US 20020194049A1, 19 December 2002

Romano, "Meet me in Cyberspace", *Association Management*, September 1998.

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims. This is a verbatim copy of the final rejection mailed on 4 October 2007. A typographical error is marked.

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 20 August 2007 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd (US 20020194049A1) in view of Romano ("Meet me in Cyberspace", *Association Management*, September 1998).
4. Boyd teaches (independent claim 1) a method and system for providing online networking groups, the method comprising:

registering three or more users by asking them to store information in *user profile database 213* (para. [0064] and [0085-0086]), which reads on entering a profile and a second profile (and a third profile) into a computer database, and creating a networking group (all three or more users/members) contained within said computer database; and a first user forming and posting an invitation to a networking meeting to two or more other users ([0049] and 0024]), the *selection preferences and criteria* including that the attendees be *intellectual property attorneys* ([0031]), the invitation being placed in *invitation database 211*, which reads on comparing said profile and said second profile

(comparing both user profiles to the *selection preferences and criteria*)<sup>1</sup>, moving said second profile into a second database (*invitation database 211*) if said ~~second~~<sup>2</sup> profile and said second profile contain same professions and same areas of practice (*intellectual property attorneys*), and creating a network group (the invited members) contained within said second database (*invitation database 211*).

5. Boyd does not teach networking/meeting online. Romano teaches networking/meeting online (Abstract). Because Romano teaches that this enables networking when members lack the opportunity to interact face-to-face (Abstract), it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add the teachings of Romano to those of Boyd.
6. Neither reference teaches (claim 6) communicating online via video/audio conferencing. However, Boyd does teach a system with video monitors and cameras ([0094 and 0101]). Because Boyd teaches that the purpose of the reference invention is to make the best use of a user's time ([0006]), it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add meeting by video/audio conferencing to the teachings of Boyd and Romano.

#### ***Response to Arguments***

7. Applicant's "Remarks" on pp. 4-10 filed with an amendment on 20 August 2007 have been fully considered but they are not persuasive. Indeed, this material is at least largely a quotation from the last Officer action, mailed on 18 May 2007. The examiner could not find new argument therein.

#### **(10) Response to Argument**

Appellant argues,

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<sup>1</sup> Things compared to the same thing are compared to each other.

<sup>2</sup> This "second" is a typographical error.

“The present invention relates to creating online networking groups of professionals, wherein the professions within a networking group do not compete with other professionals within the same networking group.” (Brief p. 9, beginning of bottom paragraph, emphasis added.)

That is not a correct statement of the claimed invention: The underlined clause, “wherein the professions within a networking group do not compete with other professionals within the same networking group”, is not a limitation of the current claims. See the claims appendix of the brief, which the examiner has confirmed to be correct, and the appellant’s summary of the invention (pp. 6-7 of the brief), which the examiner has also confirmed to be correct.

There was a limitation dealing with competition among members of the networking group in the claims as originally filed, but these limitations (to independent claims 1 and 8) were deleted from the current statement of claims, filed on 20 August 2007. Furthermore, the appellant’s quotation from an Office action,

“The Examiner states that it would be counterproductive to put competitors into a single networking group.” (Brief p. 10, beginning of bottom paragraph.)

is not a quotation from the pertinent last rejection, mailed on 4 October 2007 and reproduced above. It is a quotation from an earlier Office action<sup>3</sup> and is therefore moot. The appellant arguments from p. 9 up to the middle of p. 11 are irrelevant since they do not address the current claims.

Appellant argues

“With regards to Claims 3 and 4, the fact that Boyd teaches negative incentives for a user who does not make invitations, the opposite is not true that Boyd teaches or makes obvious to reward a user who provides referrals. In fact Boyd does not teach referrals at all. Therefore, there is no teaching to provide a positive incentive for referrals.” (Brief p. 11, second para. from the bottom.)

The examiner inadvertently dropped the specific mention of claims 2-5 and 7 in drafting the current rejection. These claims were specifically rejected as follows in the previous Office action:

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<sup>3</sup> From para. 14 and 15 of the final rejection mailed on 18 May 2007.

“18. Boyd also teaches at the citations given above claim 2 (where the invitation reads on a referral). Boyd also teaches claims 5 ([0073]) and 7 ([0065-0066]).

19. Neither reference teaches (claims 3 and 4) rewards or positive incentives commensurate with the number of invitations/referrals provided by a user. However, Boyd does teach negative incentives for a user who does not make invitations or violate invitation rules ([0053, 0073-0075 and 0111]). Because the system would work only if user make as well as honor invitations, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add to the teachings of Boyd rewards or positive incentives commensurate with the number of invitations/referrals provided by a user.” (Para. 18 and 19 of the final rejection Office action mailed on 18 May 2007. Emphasis in the original.)

Appellant argues that “Boyd does not teach referrals at all”. From para. 18 of the 18 May 2007 rejection, the invitation itself reads on a “referral”: the inviter is referring the invitee to the meeting. That is the broadest reasonable interpretation of “referral”, which is appropriate because the specification does not provide a specific “clear definition” of the term (MPEP § 2111 and 2111.01).

With respect to claims 3 and 4, Appellant argues, “the fact that Boyd teaches negative incentives for a user who does not make invitations, the opposite is not true that Boyd teaches or makes obvious to reward a user who provides referrals.” Boyd teaches substantial disincentives, including forfeiture of a deposit, imposition of fines and cancellation of membership/personal page (para. [0073]-[0075]). Furthermore, Boyd teaches (para. [ 0111]) that these quality control measures are necessary to make the system function well. It follows that the addition of positive incentives to those who make referrals and obey the reference invention’s rules would also be helpful. Indeed, the implicit act of not cancelling someone’s membership when they do not violate the rules reads on a reward of incentive.

Appellant argues (last para. on p. 11) that Boyd does not teach video conferencing (claim 6). That was admitted by the rejection (para. 6 above), which goes on to note that Boyd does teach a system with video monitors and cameras ([0094 and 0101]). Because Boyd teaches that the purpose of the reference invention is to make the best use of a user’s time ([0006]), it would have been obvious to one of ordinary skill in the art, at the time of

the invention, to add meeting by video/audio conferencing to the teachings of Boyd and Romano.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Donald L. Champagne/

Primary Examiner, Art Unit 3688

Conferees:

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Appeals Practice Specialist